IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 9073 of 2007(E)

PETITIONER:

M/S.VENUS BAKERY, BELLARD ROAD,
KANNUR REPRESENTED BY ITS MANAGING PARTNER,
SMT.P.K.SARASWATHY.

BY ADV. SRI.T.M.SREEDHARAN
SRI.V.P.NARAYANAN

RESPONDENTS:

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1. THE ASSISTANT PROVIDENT FUND
COMMISSIONER, SUB REGIONAL OFFICE,
V.K.COMPLEX, FORT ROAD, KANNUR-1.

2. THE EMPLOYEES' PROVIDENT FUND APPELLATE
TRIBUNAL, 7TH FLOOR, SKYLARK BUILDING,
60, NEHRU PLACE, NEW DELHI.

3. THE RECOVERY OFFICER,
EMPLOYEES' PROVIDENT FUND ORGANISATION,
SUB REGIONAL OFFICE, KANNUR-670 002.

BY STANDING COUNSEL SRI.R.SUDHIR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.9073 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of Order dtd.8.2.2006 issued by R1.

Ext.P2: Copy of Memorandum of Appeal and stay petition dtd.8.4.2006.

Ext.P3: Copy of communication dtd.13.3.2007 issued by the 3rd respondent.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 9073 OF 2007 - E

Dated this the 5th day of July, 2007

J U D G M E N T

The petitioner filed an appeal against an order under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act and also moved for interim orders pending disposal of the appeal. The Tribunal passed interim order directing the petitioner to pay 50% of the disputed amount. That order is under challenge in this writ petition. The petitioner's contention is that he has a strong case on merits and therefore, the Tribunal ought to have stayed the entire demand.

2. I have heard the learned Standing Counsel for the Employees' Provident Fund Organisation also. The Employees' Provident Fund Appellate Tribunal is a quasi judicial authority. Discretion is vested with it to pass interim orders which can also be on appropriate conditions. In exercise of that discretion, the impugned interim order has been passed. From the Act and Rules, for entertaining an appeal, the appellant is expected to

deposit 75% of the disputed demand unless waived by the Tribunal. That being so, I cannot hold that the Tribunal has acted erroneously in directing payment of 50% of the disputed amount. However, in view of the submission made by learned counsel for the petitioner that the petitioner is in a difficult financial situation, I direct that if the petitioner pays an additional amount of Rs.50,000/- (Rupees fifty thousand only) in addition to the amount paid as per the interim order dated 16.3.2007, the Tribunal would entertain the appeal on merits without insisting on payment of the balance and the Employees' Provident Fund Organisation shall not enforce the recovery proceedings till disposal of the appeal.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007